

REMARKS

In the Office Action mailed April 20, 2006, Claims 1-36 were pending for consideration. All of the claims were objected to and/or rejected on various statutory grounds, each of which is addressed in turn below. By the present amendment, Claims 8, 13-15, 17-18, and 30 have been amended. Applicants submit that no new matter has been added thereby. Additionally, the specification has also been amended to include the filing date from one of the references noted in the Priority Data section.

It is to be understood that all amendments have been made solely for the purpose of expediting prosecution of the present application, and without conceding the correctness of the Examiner's rejection. Accordingly, Claims 1-36 remain pending in the present application. Applicants respectfully submit that the present claims are allowable over the Patel '192 reference, and that the rejections in view thereof are now moot.

Claim and Specification Objections:

The specification was objected to because of the inadvertent omission of the filing date of the 6,248,363 patent in the Priority Data section. The specification has been amended to include this filing date.

35 U.S.C. 112, Second Paragraph Rejections:

Claims 13-15, 17-18, and 30 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite due to the use of the term "about" in connection with the recited numerical ranges. These claims have been amended to further clarify the associated ranges. As such, the Applicants respectfully request that these rejections be withdrawn.

Claims 8-12 were rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite over the use of the term “a dissolving salt of a complex.” Claim 8 has been amended to delete the term “a dissolving salt of a complex.”

Provisional Statutory Double Patenting Rejection:

Claims 1-2 and 16-33 were provisionally rejected under 35 U.S.C. 101 as allegedly claiming the same invention as that of Claims 1-2 and 17-34 of copending U.S. Patent Application No. 11/122,788. Applicants wish to thank the Examiner for bringing this provisional rejection to their attention, and request that it be held in abeyance until the claims of the present application have been finalized and allowed. In fact, Applicants are currently considering preliminary amendments to the claims of the 11/122,788 application in anticipation of receiving a notice of allowance of the present claims. These preliminary amendments will be filed in the 11/122,788 application to obviate this rejection upon receipt of the notice of allowance of the present claims.

Obviousness-Type Double Patenting Rejection:

The Examiner has provisionally rejected claims 1-36 under the judicially created doctrine of obviousness-type double patenting as being allegedly unpatentable over Claims 1-34 of copending U.S. Patent Application No. 11/122,788. A terminal disclaimer is filed herewith in order to expedite the present prosecution, without agreeing to the Examiner’s assertions.

35 U.S.C. § 102 Rejections:

The Examiner has rejected Claims 1-16, 20-26, and 28-36 under 35 U.S.C. § 102(e) as being allegedly anticipated by U.S. Pat. No. 6,294,192 (hereinafter “Patel ‘192”), filed on February 26, 1999, in light of Stedman’s Medical Dictionary (1972, p.595 and 1400). The Applicants submit that the present invention was conceived and reduced to practice prior to

February 26, 1999. A declaration to this effect under 37 C.F.R. § 1.131 setting forth the facts concerning conception and reduction to practice is appended hereto as Exhibit 1. Further, a redacted version of laboratory notebook pages showing conception and reduction to practice of the present invention prior to February 26, 1999 is appended herewith as Exhibit 2.

As such, the Applicants submit that the asserted Patel '192 reference does not qualify as prior art under 35 U.S.C. § 102(e), and respectfully request that the rejection be withdrawn.

35 U.S.C. § 103 Rejections:

The Examiner has rejected Claims 1-36 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Patel '192 in light of Stedman's Medical Dictionary, and in view of U.S. Patent No. 6,458,373 (hereinafter "Lambert"), The Merck Index (Monograph 1882, 1989), U.S. Patent No. 6,309,663 (hereinafter "Patel '663"), U.S. Patent No. 6,623,755 (hereinafter "Chen"), and U.S. Patent No. 5,403,593 (hereinafter "Royce").

For the reasons described above, the asserted Patel '192 reference is not available as a prior art reference to use in establishing a *prima facie* case of obviousness.

Accordingly, Claims 1-36 remain pending in the present application. Applicants respectfully submit that the present claims are allowable over the cited references, and that the rejections in view thereof are now moot.

CONCLUSION

In view of the foregoing, the Applicants believe that Claims 1-36 present allowable subject matter and the prompt allowance thereof is requested. If any impediment to the allowance of these claims remains after consideration of the present amendment and above remarks, and such impediment could be removed during a telephone interview, the Examiner is invited to telephone the undersigned attorney, so that such issues may be resolved as expeditiously as possible.

Please charge any additional fees except for Issue Fee or credit any overpayment to Deposit Account No. 20-0100.

Dated this 20th day of June, 2006.

Respectfully submitted,

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